

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

SARA AMROUSSI-GILISSEN,

Plaintiff,

V.

NEVER2FUNKY, LLC, and  
ALEXANDER CHANEY,

Defendants.

.....

Civil Action No.:

## COMPLAINT AND JURY DEMAND

## COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, SARA AMROUSSI-GILISSEN (“Plaintiff” or “Amroussi”), brings this complaint in the United States District Court for the District of New Jersey against NEVER2FUNKY, LLC (“Never2Funky”), and ALEXANDER CHANEY (“Chaney”) (together “Defendants,”), alleging as follows:

PARTIES

1. Plaintiff is an experienced commercial photographer and owner of Tiger in my Tank, an agency specializing in video production, animation, illustration, and design. Plaintiff resides in London, England and Maastricht, Netherlands. Plaintiff has worked for a wide range of clients, including but not limited to: *The Guardian*, Cartoon Network, *Time Out Magazine*, Urban Outfitters, Noisey, The Line of Best Fit, DIY Records, and Amazing Radio.

2. On information and belief, Never2Funky is a Limited Liability Company operating under the laws of the state of New Jersey<sup>1</sup> or Texas<sup>2</sup>, or both, with headquarters in Lumberton, New Jersey or Austin, Texas, or both. Never2Funky published *Alex Chaney's BackPocket*, an online magazine focused on popular culture, between January 2006 - September 2016. Never2Funky owns and operates the following websites: [www.backpocketmag.com](http://www.backpocketmag.com); and [www.never2funky.com](http://www.never2funky.com).
3. On information and belief, Chaney is an individual residing in Austin, Texas. Chaney is the sole officer and employee of Never2Funky. Chaney published *Alex Chaney's BackPocket*, an online magazine focused on popular culture, between January 2006 - September 2016.<sup>3</sup> Chaney owns and operates the following websites: [www.backpocketmag.com](http://www.backpocketmag.com); and [www.never2funky.com](http://www.never2funky.com).

#### JURISDICTION AND VENUE

4. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
5. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
6. This Court has personal jurisdiction over the Defendants, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that a substantial part of the acts of infringement complained of herein occurred in this District.
7. This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a).

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<sup>1</sup> <https://whois.icann.org/en/lookup?name=www.backpocketmag.com>

<sup>2</sup> <https://whois.icann.org/en/lookup?name=www.never2funky.com>

<sup>3</sup> <https://www.linkedin.com/in/alexchaney/>

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

8. Plaintiff captured the photograph, “Elliphant” (“Copyrighted Photograph”) on [November 29, 2012]. [Exhibit 1].
9. On or about September 20, 2014, The Line of Best Fit, UK’s biggest independent website dedicated to new music, posted the Copyrighted Photograph to [www.thelineofbestfit.com/news/latest-news/listen-to-elliphant-team-up-with-m-on-new-track-one-more](http://www.thelineofbestfit.com/news/latest-news/listen-to-elliphant-team-up-with-m-on-new-track-one-more) (Last visited November 10, 2017). [Exhibit 2].
10. Beginning on or about December 1, 2015, Defendants copied and posted the Copyrighted Photograph to the Defendants’ commercial website, [www.backpocketmag.com](http://www.backpocketmag.com) (Last visited November 10, 2017).
11. Defendants posted the Copyrighted Photograph to the following URL:
  - [www.backpocketmag.com/2015/12/elliphant](http://www.backpocketmag.com/2015/12/elliphant) (Last visited November 10, 2017).[Exhibit 3].
12. Following an email inquiry by Pixsy, Inc. (“Pixsy”) concerning the alleged unlicensed use of the Copyrighted Photograph, Chaney stated:

“Knock yourself out stupid. We couldn’t find out who the dumb bitch was who own (sic) the photo long ago to offer payment so we pulled it.

So go fuck off and troll someone else. Oh and tell that dumb bitch to provide a way to get at her for payment in the future to avoid this type of shit.

But if you still wanna sue, then please be my guest, then brace for a shock ya dumb cunts!!

Oh and have an awesome day sucking each other’s dicks.”

[Exhibit 4].

13. Plaintiff deposited copies of the Copyrighted Photograph with the United States Copyright Office and paid the required registration fee in accordance with 17 U.S.C. §§ 408-9, 708.
14. Plaintiff received a receipt (Case Number 1-6086071532) for his registration application for the Copyrighted Photograph from the United States Copyright Office. [Exhibit 5].

COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. § 101 ET SEQ.

15. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.
16. Plaintiff is, and at all relevant times has been, the copyright owner or licensee of exclusive rights under United States copyright with respect to the Copyrighted Photograph, which are the subject of a valid and complete application before the United States Copyright Office for Certificate of Copyright Registration by the Register of Copyrights.
17. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Photograph and to distribute the Copyrighted Photograph to the public.
18. Plaintiff is informed and believes that Defendants, without the permission or consent of Plaintiff, have copied and used the Copyrighted Photograph to [www.backpocketmag.com](http://www.backpocketmag.com). In doing so, Defendants violated Plaintiff's exclusive rights of reproduction and distribution. Defendants' actions constitute infringement of Plaintiff's copyright and exclusive rights under copyright.
19. Plaintiff is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Plaintiff.

20. As a result of Defendants' infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to actual damages, including any profits realized by Defendants attributable to the infringement, pursuant to 17 U.S.C. § 504(b) for Defendants' infringement of the Copyrighted Photograph.

COUNT II: REMOVAL AND ALTERATION OF INTEGRITY OF COPYRIGHT  
MANAGEMENT INFORMATION PURSUANT TO 17 U.S.C. § 1202

21. Plaintiff is informed and believes that Defendants, without the permission or consent of Plaintiff, knowingly and with the intent to conceal infringement, intentionally removed the copyright management information from Plaintiff's Copyrighted Photograph before displaying the Copyrighted Photograph on Defendants' public website, [www.backpocketmag.com](http://www.backpocketmag.com). In doing so, Defendants violated 17 U.S.C. § 1202(a-b)(1).
22. As a result of Defendants' actions, Plaintiff is entitled to actual damages or statutory damages pursuant to 17 U.S.C. § 1203(c). Plaintiff is further entitled to her attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b)(5).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. Declaring that Defendants' unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Defendants, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing

Plaintiff's Copyrighted Photograph without consent or otherwise infringing Plaintiff's copyright or other rights in any manner;

- C. Ordering Defendant to account to Plaintiff for all gains, profits, and advantages derived by Defendant by their infringement of Plaintiff's copyright or such damages as are proper, and since Defendant intentionally infringed Plaintiff's copyright, for the maximum allowable statutory damages for each violation;
- D. Awarding Plaintiff her costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 1203(b)(3), and § 1203(b)(5); and
- E. Awarding Plaintiff such other and further relief as is just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims for which there is a right to jury trial.

Dated: February 28, 2018

\_\_\_\_\_/s/\_\_\_\_\_*David C. Deal*\_\_\_\_\_  
David C. Deal (VA Bar No.: 86005)  
The Law Office of David C. Deal, P.L.C.  
P.O. Box 1042  
Crozet, VA 22932  
434-233-2727, Telephone  
888-965-8083, Facsimile  
*Counsel for Plaintiff*

*Howard A. Gutman*  
Howard A. Gutman ( )  
Law Office of Howard A. Gutman  
230 Route 206, Suite 307  
Flanders, New Jersey 07836  
973-598-1980, Telephone  
973-531-4110, Facsimile

EXHIBIT 1





## EXHIBIT 2

Listen to Elephant team up with...  
https://www.thelineofbestfit.com/news/latest-news/listen-to-elfphant-team-up-with-m-on-new-track-one-more

THE LINE OF BEST FIT FEATURES NEWS SESSIONS TRACKS ALBUMS PHOTOS

By **Laurence Day** / 20 SEPTEMBER 2014, 10:11 BST




Photo by Sara Amroussi-Gillissen

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### News

Visions Festival confirms dog show details, adds Kero Kero Bonito, Sacred Paws, and more

LCD Soundsystem announce new record American Dream and confirm new UK shows

Mozart's Sister talks about the power of scent on an all-new Talk The Line

Yep, Lorde used to run a secret Instagram account where she reviewed onion rings

Dizzee Rascal is back with "Space" ahead of new album Raskit

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GOT IT!



EXHIBIT 3

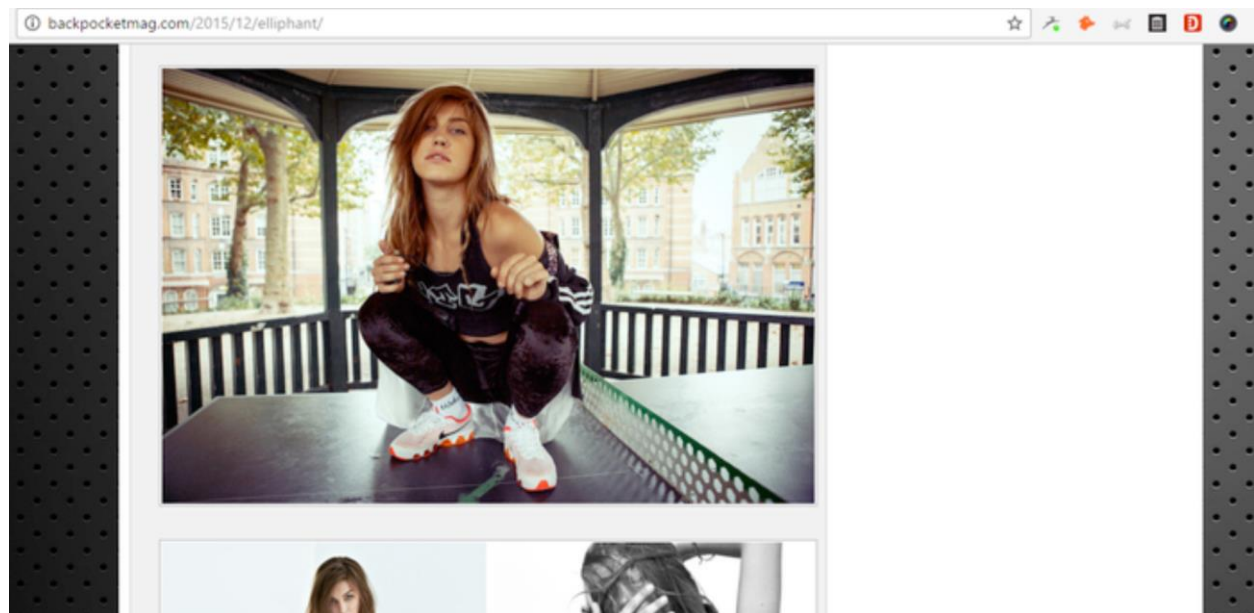


EXHIBIT 4

----- Original Message -----

**From:** Alex Chaney [alex@backpocketmag.com]  
**Sent:** 10/06/2017 00:04  
**To:** resolution@pixsy.com  
**Subject:** Re: Second Notice: Unauthorized Use of Photograph (001-021183)

Knock yourself out stupid. We couldn't find out who the dumb bitch was who own the photo long ago to offer payment so we pulled it.

So go fuck off and troll someone else. Oh and tell that dumb bitch to provide a way to get at her for payment in the future to avoid this type of shit.

But if you still wanna sue, then please be my guest, then brace for a shock ya dumb cunts!!

Oh and have an awesome day sucking each other's dicks.

-Alex

On Jun 8, 2017, at 5:01 PM, PIXSY Resolution Team <[resolution@pixsy.com](mailto:resolution@pixsy.com)> wrote:



PIXSY Resolution Team  
340 S Lemon Ave #5514N  
Walnut, CA 91789  
[resolution@pixsy.com](mailto:resolution@pixsy.com) (323) 284-9404

By email:

Alex Chaney  
Never2Funky, LLC  
13 Thornhill Dr  
Lumberton, New Jersey 8048  
[alex@backpocketmag.com](mailto:alex@backpocketmag.com)

June 9, 2017

**Second Notice: Unauthorized Use of Mr. Amroussi's Photograph - Case Reference: 001-021183**

Attn: Alex Chaney:

You were previously notified of an unauthorized use of Sara Amroussi's photograph on your webpage. To date we have not received payment for your license fee.

Details of the unauthorized use are set out in the attached **Unauthorized Use Report**. Please refer to this document and the attached FAQ if you have any questions or require further clarification regarding why you received this email.

EXHIBIT 5

12/11/2017

Electronic Copyright Office (eCO)


[Back](#) (JavaScript:SWESubmitForm(document.SWEForm5\_0\_s\_0,"s\_5\_1\_39\_0","1-2SNHMUK"))
**Case Summary:**

Case #: 1-6086071532	Type of Case: Work of the Visual Arts	Opened: 12/11/2017	Upload Enabled: N
Title: Elephant		Contact Name: Daniel Foster	
Fee Due: 35.00	Service Fee Paid: 35.00	Claim Status: Pending	

**Submit Your Work(s)**

To complete your submission, please submit the required copy(ies) of your work (<http://www.copyright.gov/eco/help-deposit-req.html>). You may (1) upload electronic files if the work meets t

(1) Upload your work(s) (<http://www.copyright.gov/eco/help-upload-tutorial.html>): Please perform the following steps for the case(s) in the table below.

**Step 1:** Click the "Select files to upload" button. Using your computer's browser, select your files for the corresponding work then click the "Start upload" button.

**Step 2:** After uploading [all files](#) for this work, click the corresponding "Complete Your Submission" (<http://www.copyright.gov/eco/help-upload-complete.html>) button. Files cannot be uploade

**Please note:** Files cannot be returned or deleted once uploaded. To avoid delays and/or a later effective date of registration, please verify the following before uploading a cop:

- It is a category of work that may be uploaded (<http://www.copyright.gov/eco/help-upload-category.html>)
- It is an acceptable file type (<http://www.copyright.gov/eco/help-acceptable-files.html#type>)
- It is an acceptable file size (<http://www.copyright.gov/eco/help-acceptable-files.html#size>)

**Upload Your Work(s)**

Case Details	Step 1: Select & Upload Files
Case #: 1-6086071532 Title: Elephant Volume: Number: Issue Date: Type of Work: Work of the Visual Arts	

**Updates**

Comments [\(JavaScript:SWESubmitForm\(document.SWEForm6\\_0\\_s\\_1,"s\\_6\\_2\\_36\\_0","1-2SNH4SD"\)\)](#) Activity Type [\(JavaScript:SWESubmitForm\(document.SWEForm6\\_0\\_s\\_1,"s\\_6\\_2\\_23\\_0","1-2SNH4S](#)  
[\(JavaScript:SWESubmitForm\(document.SWEForm6\\_0\\_s\\_2,"s\\_6\\_2\\_36\\_0","1-2SNH4SD"\)\)](#) [\(JavaScript:SWESubmitForm\(document.SWEForm6\\_0\\_s\\_2,"s\\_6\\_2\\_23\\_0","1-2SNH4S](#)  
 Submitted by PIXSY on 12/11/2017 Upload Deposit

**(2) Send Your Work(s) by Mail:**

- Click the "Create Shipping Slip" button in the table below; a Shipping Slip link will appear in the Attachments column.
- Click the Shipping Slip link and print out and attach the shipping slip(s) to your deposit copy(ies). For multiple cases, be sure to attach shipping slips to the corresponding copies.
- Mail the deposit copy(ies) within 30 days to the Copyright Office address at the bottom of the slip. Note: Your effective date of registration will be based on the date on which we receive the copies **with corresponding shipping slips attached**.

Click "Home" after uploading files(s) or printing shipping slip(s). You may verify the submission in the open Cases table on your eCO Home page.

**Send Your Work(s) by Mail****Create Shipping Slip**

(JavaScript:SWESubmitForm(document.SWEForm1\_0\_s\_8,"s\_1\_1\_11\_0",""))

Attachment Name <a href="#">(JavaScript:SWESubmitForm(document.SWEForm1_0_s_9,"s_1_2_19_0",""))</a>	File Type <a href="#">(JavaScript:SWESubmitForm(document.SWEForm1_0_s_9,"s_1_2_23_0",""))</a>	Size <a href="#">(JavaScript:SWESubmitForm(</a> <a href="#">(JavaScript:SWESubmitForm(document.SWEForm1_0_s_10,"s_1_2_19_0",""))</a> <a href="#">(JavaScript:SWESubmitForm(document.SWEForm1_0_s_10,"s_1_2_23_0",""))</a> <a href="#">(JavaScript:SWESubmitForm(</a>
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Privacy Act Notice: Sections 408-410 of title 17 of the United States Code authorize the Copyright Office to collect the personally identifying information requested on this form in order to process the application for copyright registration. By providing this information you are information requested, registration may be refused or delayed, and you may not be entitled to certain relief, remedies, and benefits under the copyright law.

Take Our Survey! (<https://www.research.net/r/eCopyRight>)

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- It is an acceptable file type (<http://www.copyright.gov/eco/help-acceptable-files.html#type>)
- It is an acceptable file size (<http://www.copyright.gov/eco/help-acceptable-files.html#size>)

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**Updates**